

FILED
MAY 16 2013

Clerk, U.S. District Court
District Of Montana
Missoula

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BUTTE DIVISION

UNITED STATES OF AMERICA,) CR 11-08-BU-DWM
)
)
Plaintiff,)
)
)
vs.) ORDER
)
)
SETH PATRICK DURNAM,)
)
)
Defendant.)
)

United States Magistrate Judge Jeremiah C. Lynch entered Findings and Recommendation in this matter on April 25, 2013. Neither party objected and therefore they are not entitled to de novo review of the record. 28 U.S.C. § 636(b)(1); United States v. Reyna-Tapia, 328 F.3d 1114, 1121 (9th Cir. 2003). This Court will review the Findings and Recommendation for clear error.

McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc., 656 F.2d 1309, 1313 (9th Cir. 1981). Clear error exists if the Court is left with a “definite and firm conviction that a mistake has been committed.” United States v. Syrax, 235 F.3d

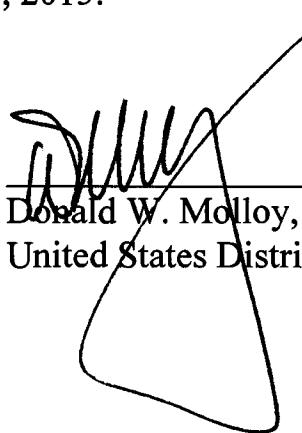
422, 427 (9th Cir. 2000).

Judge Lynch recommended this Court accept Seth Patrick Durnam's guilty plea after Durnam appeared before him pursuant to Federal Rule of Criminal Procedure 11, and entered his plea of guilty to one count of being in possession of child pornography in violation of 18 U.S.C. § 2252A(a)(5)(B), as set forth in the Information filed against him. Defendant further agrees to the forfeiture allegations in the Information.

I find no clear error in Judge Lynch's Findings and Recommendation (doc. 32), and I adopt them in full, including the recommendation to defer acceptance of the Plea Agreement until sentencing when the Court will have reviewed the Plea Agreement and Presentence Investigation Report.

Accordingly, IT IS HEREBY ORDERED that Seth Patrick Durnam's motion to change plea (doc. 26) is GRANTED.

DATED this 16 day of May, 2013.


Donald W. Molloy, District Judge
United States District Court